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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ONONDAGA

ANNA MARIE SCIRE
224 Ashdale Avenue
Syracuse, New York 13206

Plaintiff,

SUMMONS

vs.

Index No.: 2009-7165

SYNTHES USA, LLC
111 Eighth Avenue
New York, New York 10011

Defendant:

To the above-named Defendant:

YOU ARE HEREBY SUMMONED AND REQUIRED to respond to the claim for the relief sought by the Plaintiff by either serving a written Demand for a Complaint or a written Notice of Appearance on the Plaintiff's attorney at the address stated below.

If this Summons and Complaint is served upon you within the State of New York by personal service, you must respond within TWENTY (20) days after the service, not counting the day of service. If this Summons and Complaint is not personally delivered to you within the State of New York, you must respond within THIRTY (30) days after service is completed, as provided by law.

If you fail to respond, Judgment will be taken against you by default for the relief demanded in the Complaint together with the costs and disbursements of this action.

This action is brought in the County of Erie because of Plaintiff's residence.

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Dated: Akron, New York
October 21, 2009


Eric Friedhaber, Esq.
Nicholas, Perot, Smith,
Bernhardt & Zosh, P.C.
12364 Main Road
P.O. Box 176
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Telephone: (716) 542-5413

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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ONONDAGA

ANNA MARIE SCIRE

Plaintiff,

COMPLAINT

vs.

Index No.: 2009-7165

SYNTHES USA, LLC

Defendant.

The Plaintiff, Anna Marie Scire, by and through her attorney, Eric Friedhaber, Esq., for their Complaint against the Defendant, Synthes USA, LLC, alleges as follows:

AS AND FOR THE FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the Plaintiff, Anna Marie Scire, was and is a resident of 224 Ashdale Avenue, Syracuse, New York.
2. Upon information and belief, the Defendant transacts business and contracts to supply goods in the State of New York.
3. That upon information and belief, the Defendant, Synthes USA, LLC, is a foreign limited liability company which is certified to do business in the County of Onondaga and State of New York.
4. Upon information and belief, the Defendant conducted business within the State of New York, and the causes of action herein alleged and set forth arise from and out of the Defendant's transaction of business within this State.
5. Upon information and belief, the Defendant assembled, manufactured, designed, and engaged in the business of selling internal fixation devices.

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6. On or about October 14, 2006, an internal fixation device manufactured, designed, and sold by the Defendant was surgically implanted in the Plaintiff's right leg.

7. On or about November 25, 2006, said fixation device broke and cracked inside the Plaintiff's right leg.

8. Plaintiff at all times abided by the recommendation of Defendant in the use and operation of said fixation device.

9. Due to the breaking of said device, Plaintiff was caused to suffer great pain for a prolonged period of time, loss of enjoyment of life, and increased medical bills.

10. That Defendant, its agents, servants and/or employees knew, or by the exercise of due care should have known, that the said fixation device, in its design, assembly, and manufacturing was unreasonably dangerous and defective so that said device constituted and instrumentality of great, inherent and latent danger to the public, by reason of its unstable and unsafe condition, lack of good, adequate and sufficient quality and other deficiencies rendering said device unfit for use.

11. Defendant should be held strictly liable for all injuries proximately caused to Plaintiff because of the malfunction of said fixation device.

12. That said defects directly and proximately resulted in injury to the Plaintiff.

AS AND FOR A SECOND CAUSE OF ACTION

13. Plaintiff repeats and alleges each and every allegation set forth in prior paragraphs with the same force and effect.

14. That Defendant expressly and impliedly warranted that said device was fit for its intended use, was safe, and was of merchantable quality.

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15. That the Plaintiff relied upon the warranties of the Defendant.

16. That the Defendant breached its warranties in that said device was unsafe and unsuitable for its intended purpose, and not of merchantable quality.

AS AND FOR A THIRD CAUSE OF ACTION

17. Plaintiff repeats and realleges each and every allegation set forth in prior paragraphs with the same force and effect.

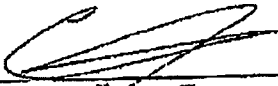
18. That Defendant owed a duty to supply Plaintiff with a non-defective fixation device.

19. That Defendant breached its duty to Plaintiff in that it was careless, reckless, and negligent in selling to Plaintiff a defective device.

20. That as a result of the severe negligence and carelessness of the said Defendant, the Plaintiff was severely and permanently injured, was caused to incur considerable medical bills all to her damage in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, the Plaintiff demands judgment against the Defendant, together with the costs and disbursements of this action.

Dated: Akron, New York
October 21, 2009



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